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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 28—OFFICIAL PERSONNEL FOLDER

SPECIFICATIONS

1. The item "Report of Efficiency Rating, Standard Form 51," listed among the permanent records to be filed on the right side of the official personnel folder (§ 28.11 (b)) is amended to read, "Report of Efficiency Rating (regular official) Standard Form 51."

2. The item "Letters of Release," listed among the temporary records in § 28.11 (c) is revoked.

3. Section 28.11 (c) is further amended by changing the period at the end of the paragraph to a semicolon and adding the following item: "Administrative-unofficial efficiency ratings made on Standard Form 51."

(Sec. 3 E. O. 9784, Sept. 25, 1946, 11 F. R. 10909)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 47-10491; Filed, Nov. 26, 1947; 8:46 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

Subchapter B—Statements of General Policy or Interpretation Not Directly Related to Regulations

PART 780—AGRICULTURE, PROCESSING OF AGRICULTURAL COMMODITIES, AND RELATED SUBJECTS

SUBPART A—GENERAL, AND PROCESSING AGRICULTURAL COMMODITIES

Release R-1892, issued by the Administrator of the Wage and Hour Division on January 25, 1943, is supplemented by this interpretation dealing with handling, labeling and casing of canned fresh fruits and vegetables.

Under Release R-1892, the Administrator expressed the opinion that under section 7 (c) of the Fair Labor Standards Act, an employer who is engaged in canning perishable or seasonal fresh fruits or vegetables is allowed an exemption, while so engaged, from the overtime requirements, but not from the minimum wage requirements of the act, for not to exceed 14 workweeks in the calendar year at any place of employment where he is engaged in such canning operations. The exemption can be taken only for those employees who, in the particular workweek, (1) are working in a place of employment where their employer is engaged in canning these specified commodities and (2) are themselves engaged solely in canning such commodities or in occupations that are a necessary incident to such canning operations.

In order to further clarify the position of the Wage and Hour Division with respect to the exemption granted under section 7 (c) of the act, the following supplementary interpretation is herewith announced:

§ 780.50 *Handling, labeling, and casing of canned fresh fruit and vegetables in a cannery storage place.* Employees engaged in handling, labeling, and casing of canned fresh fruits and vegetables in a cannery storage place, as a necessary incident to the canning of such commodities by their employer, are within the exemption in any workweek when it is otherwise applicable, regardless of whether the storage place in which they work is located in the cannery building itself, so long as the cannery building and the storage place are parts of the same place of employment. It is the Administrator's opinion that such handling, labeling and casing operations may be considered as performed in the same place of employment as the canning of the fresh fruits and vegetables (a) if the storage place where they are performed is in the same county where the cannery building is located, or in a contiguous county; and (b) if the canned fresh fruits or vegetables on which they are performed were taken directly to the storage place from the cannery building without intermediate storage at any other place; and (c) if such operations are performed by employees of the canner who work interchangeably at the cannery and the storage place or whose performance of the work is directed from the cannery in the

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

CODIFICATION GUIDE—Con.

same manner as if they performed it in a storage place located within the cannery. (60 Stat. 237; 5 U. S. C., Supp., 1001–1011)

Signed at Washington, D. C., this 21st day of November 1947.

WM. R. MCCOMB,
Administrator

[F. R. Doc. 47-10476; Filed, Nov. 26, 1947; 8:54 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter XXIII—War Assets Administration

[Reg. 21, Amdt. 2]

PART 8321—PRICING AND DISTRIBUTION POLICY FOR PRODUCTION MATERIALS AND PRODUCTION EQUIPMENT

War Assets Administration Regulation 21, August 30, 1947, as amended September 17, 1947, entitled "Pricing and Distribution Policy for Production Materials and Production Equipment" (12 F R. 6071, 6359) is hereby further amended by changing § 8321.4 (b) to read as follows:

(b) *Competitive bids.* The competitive bid method of sale may be used (1) where the property is a nonstandard commercial item, or (2) is of unknown marketability, or (3) is available only in mixed lots or small quantities, or (4) when rapid clearance of a site is necessary, or (5) when the property remains in inventory after full and adequate offering has been made at fixed prices to all classes of purchasers in the areas in which such property is normally purchased. The competitive bid method

includes the use of sealed bids, open bids and public auctions.

(Surplus Property Act of 1944, as amended; (58 Stat. 765, as amended; 50 U. S. C. App. Sup. 1611) Pub. Law 181, 79th Cong. (59 Stat. 533; 50 U. S. C. App. Sup. 1614a, 1614b) and Reorganization Plan 1 of 1947 (12 F. R. 4534))

This amendment shall become effective November 21, 1947.

ROBERT M. LITTLEJOHN,
Administrator.

NOVEMBER 21, 1947.

[F. R. Doc. 47-10554; Filed, Nov. 26, 1947; 11:34 a. m.]

TITLE 46—SHIPPING

Chapter II—United States Maritime Commission

Subchapter F—Merchant Ship Sales Act of 1946

[Gen. Order 60, Supp. 12]

PART 299—RULES AND REGULATIONS, FORMS, AND CITIZENSHIP REQUIREMENTS

ADDITIONAL VESSEL PRICES

Subject to the provisions of the Merchant Ship Sales Act of 1946 (60 Stat. 41) and Part 299 of Title 46, published in the FEDERAL REGISTER, on April 23, April 30, August 2, August 17, September 10, September 28, December 17, 1946, and August 16, 1947 (11 F. R. 4459, 4702, 8370, 8972, 8977, 9936, 11076, 14468, 12 F. R. 5554) the following additional vessel prices are published:

PRICES FOR STANDARD MARITIME COMMISSION VESSELS IN ACCORDANCE WITH THE MERCHANT SHIP SALES ACT OF 1946

Type vessel	Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
Dry cargo: N3-M-A1	$786,000	$1,384,932	*50 percent 1941 cost* $393,000	*35 percent war cost* $484,726

SUBPART F—PREWAR DOMESTIC COSTS; STATUTORY SALES PRICES

Section 299.56 *Prewar domestic costs; statuory sales prices* is amended by adding at the end thereof the following paragraphs:

(jj) *Type N3-M-A1.* (Not previously published). The principal design characteristics are as follows:

L. O. A	269' 10"
LBP	255' 0"
Beam mld	42' 6"
Depth mld	25' 3"
Cubic bale capacity	161,000 cubic feet.
Draft	20' 9"
Brake horsepower	1,300 at 277 r. p. m.
Speed	10½ knots.
Maximum displacement	5,202 long tons.
Gross tonnage	2,323.
Net tonnage	1,723.
Deadweight	4,054 long tons.

The basic N3-M-A1 cargo vessel is a cargo vessel without any special features such as deep tanks, cargo reefer, or heavy lift equipment, and is assumed to meet requirements for satisfactory certification by the American Bureau of Shipping, United States Public Health Service and the Coast Guard. The N3-M-A1 shall be assumed to have the following basic outfit:

(1) 2 Masts.
(2) 6 5-ton booms.
(3) 6 Winches.
(4) 2 Lifeboats.

The price herein set forth does not include machinery or equipment that is not provided in accordance with standard Merchant Marine practice for a vessel of this size and type. Equipment and betterments such as machine tools, welding machines, compressors, evaporators, diving equipment, generators (in excess capacity required for the basic ship), towing winches, landing craft, cargo pumps, and troop accommodations are definitely not included in these prices.

The prices of the standard type are as follows:

Prewar domestic cost	Domestic war cost	Unadjusted statutory sales price	Floor price
$786,000	$1,384,932	*50 percent 1941 cost* $393,000	*35 percent war cost* $484,726

(60 Stat. 41)

By order of the United States Maritime Commission.

[SEAL] A. J. WILLIAMS,
Secretary.

NOVEMBER 7, 1947.

[F. R. Doc. 47-10492; Filed, Nov. 26, 1947; 8:49 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[5th Rev. S. O. 104, Amdt. 1]

PART 95—CAR SERVICE

SUBSTITUTION OF REFRIGERATOR FOR BOX CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 20th day of November A. D. 1947.

Upon further consideration of Fifth Revised Service Order No. 104 (12 F. R. 6223), and good cause appearing therefor: It is ordered, that:

Section 95.104 *Substitution of refrigerator cars for box cars,* of Fifth Revised Service Order No. 104, be, and it is hereby, further amended by substituting the following paragraphs (a) (1), (2) (3) and (d) in lieu of paragraphs (a) (1) (2) (3) and (d) thereof:

§ 95.104 *Substitution of refrigerator cars for box cars.* (a) Any common carrier by railroad subject to the Interstate Commerce Act, for transporting:

(1) Westbound shipments in carloads originating at points shown as origin points in Agent L. E. Kipp's tariffs, I. C. C. Nos. 1516 and 1517, supplements thereto or reissues thereof, and destined to points in the States of California, Southern Idaho (on the Union Pacific main and branch lines across Southern Idaho, including the line from Pocatello to the Montana-Idaho State line and the branches north of Blackfoot, Idaho) Arizona, Nevada or Utah; or

(2) Westbound shipments in carloads originating at points in the State of Utah and destined to points in the States of California or Nevada; or

(3) Westbound shipments in carloads originating in the States of Michigan (lower peninsula only), Indiana, (excluding Chicago switching district) Kentucky, Tennessee, or Mississippi, or east thereof, and destined to points in the States of Minnesota, Iowa, Kansas, Oklahoma and Texas, or west thereof, or to Kansas City, Missouri;

may, when freight (except freight requiring refrigeration, ventilation, insulation or heater service at the time cars are furnished or transported) to be transported is suitable, and facilities are suitable, for loading in RS type refrigerator cars and when such refrigerator cars are reasonably available:

(d) *Application.* (1) The provisions of Service Order No. 68, as amended, insofar as they conflict with this order are suspended.

(2) No car or cars subject to this order shall be stopped in transit to complete loading.

(3) Any car or cars subject to this order may be stopped in transit for partial unloading at any point in the destination territory described herein, provided such stop-off is authorized in tariffs on file with this Commission.

It is further ordered, that this amendment shall become effective at 12:01 a. m., December 1, 1947, that a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 1, 24 Stat. 379, as amended, 49 Stat. 101, sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-10475; Filed, Nov. 26, 1947; 8:49 a. m.]

PROPOSED RULE MAKING

TREASURY DEPARTMENT

Bureau of Internal Revenue

[26 CFR, Parts 400–403]

EMPLOYMENT TAX REGULATIONS WITH RESPECT TO EMPLOYER-EMPLOYEE RELATIONSHIP

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 1429, 1609, and 3791 of the Internal Revenue Code (53 Stat. 178, 188, 467; 26 U. S. C., 1429, 1609, 3791) and sections 808 and 908 of the Social Security Act (49 Stat. 638, 643; 42 U. S. C., 1008, 1108)

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

In order to conform Regulations 106 (26 CFR, Part 402) relating to the employees' tax and the employers' tax under the Federal Insurance Contributions Act (Subchapter A, Chapter 9, Internal Revenue Code) Regulations 107 (26 CFR, Part 403) relating to the excise tax on employers under the Federal Unemployment Tax Act (Subchapter C, Chapter 9, Internal Revenue Code) Regulations 90 (26 CFR, Part 400) relating to the excise tax on employers under Title IX of the Social Security Act; such Regulations 90 as made applicable to the Internal Revenue Code by Treasury Decision 4885 (26 CFR, Cum. Supp., p. 5876) Regulations 91 (26 CFR, Part 401) relating to the employees' tax and the employers' tax under Title VIII of the Social Security Act; and such Regulations 91 as made applicable to the Internal Revenue Code by such Treasury Decision 4885, to the principles enunciated in "United States v. Silk" (1947) 67 S. Ct. 1463; 1947 Int. Rev. Bull., No. 15, at 36, "Bartels et al. v. Birmingham et al.," (1947) 67 S. Ct. 1547; 1947 Int. Rev. Bull., No. 15, at 43, and related cases, such regulations are amended as follows:

PARAGRAPH 1. Section 402.204 of Regulations 106 (26 CFR 402.204) is amended to read as follows:

§ 402.204 *Who are employees*—(a) *In general.* Whether an individual is an employee under the Federal Insurance Contributions Act must be determined primarily from the terms and purposes of the pertinent provisions of the social security legislation, of which such act is a part. The Congressional purpose in enacting the social security legislation was to establish and maintain a national system of old-age and survivors insurance and to promote the establishment and maintenance of a nation-wide system of unemployment compensation. These measures are designed to replace a part of the wage income lost through old age, premature death, or unemployment.

The term "employee" is not a word of art having a definite meaning. The relationship of employer and employee for the purposes of the social security legislation and the regulations in this part is not restricted by the technical legal relation of "master and servant," as the common law has developed that relation in all its variations; and at the same time the relationship of employer and employee does not include the entire area of rendering service to others.

An individual performing services for a person is generally an employee of such person unless he is performing such services in the pursuit of his own business as an independent contractor. In most cases in which an individual renders services to a person, general understanding and usage make clear the status of that individual either as an employee of such person or as an independent contractor. For example, in most cases, miners, bus drivers, manual laborers, and garage, hotel and other service workers, as well as factory, office, and store workers, whether skilled or unskilled, and whether the work is permanent or impermanent, are clearly employees of the persons for whom they render services, and such persons are clearly the employers.

On the other hand, physicians, lawyers, dentists, veterinarians, building contractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are in most cases clearly independent contractors and not employees. The typical independent contractor has a separate establishment distinct from the premises of the person for whom the services are performed; he performs services under an agreement to complete a specific "job" or piece of work for a total remuneration or price agreed on in advance; at times and places and under conditions fixed by him, he offers his services to a public or customers of his own selection rather than a single person; neither he nor the person for whom the services are performed has the right to terminate the contract except for cause; he may delegate the performance of the services to helpers; he performs the services in or under his own name or trade name rather than in or under that of the person for whom the services are performed; the performance of the services supports or affects his own good will rather than that of the person for whom the services are performed; and he has a going business which he may sell to another.

In the case of individuals in the intermediate class between those individuals who are clearly employees and those individuals who are clearly independent contractors, the determination of which relationship exists will be made upon an examination of the particular facts of the case. Some of the factors to be considered in determining whether the relationship of employer and employee exists are listed in paragraph (b) of this section.

Persuasive in making such determinations is the status of the individual under the National Labor Relations Act and the Fair Labor Standards Act of 1938.

(b) *Factors to be considered.* In the application of the Federal Insurance Contributions Act and the regulations in this part an employee is an individual in a service relationship who is dependent, as a matter of economic reality, upon the business to which he renders service and not upon his own business as an independent contractor. It is immaterial that the individual may have personal means and security from sources other than such relationship. Whether the services performed by an individual constitute him an employee as a matter of economic reality or an independent contractor as a matter of economic reality is determined in the light of a number of factors, including the following (although their listing is neither complete nor in order of importance)

(1) Degree of control over the individual.

(2) Permanency of relation.

(3) Integration of the individual's work in the business to which he renders service.

(4) Skill required of the individual.

(5) Investment by the individual in facilities for work.

(6) Opportunities of the individual for profit or loss.

Some of the facts or elements which may be considered in applying the above-listed factors are stated in paragraph (d) of this section. Just as the above-listed factors cannot be taken as all inclusive, so too the statement of facts or elements set forth in paragraph (d) of this section cannot be considered as complete. The absence of mention of any factor, fact, or element in these regulations in this part should be given no significance, since the nation's economy is blanketed with many forms of service relationship, with infinite and subtle variations in terms, which render impracticable an analysis applicable to all situations.

(c) *Significance of factors.* Each of the factors is to be examined and applied in a particular case for its significance in determining in that case whether, as a matter of economic reality, the individual is dependent upon, or independent of, the business to which he renders service. Thus, the pertinent inquiry in the case of each factor is whether the facts found thereunder are compatible, as a matter of economic reality, with the business being that of the person for whom the serv-

ices are performed, or, on the other hand, that of the individual performing the services.

No one factor is controlling. The mere number of factors pointing to a particular conclusion does not determine the result. All the factors are to be weighed for their composite effect. It is the total situation in the case that governs in the determination.

One fact or element may establish or tend to establish the existence of more than one factor, and may even have an independent value of its own as tending to establish either the employer-employee relationship or the independent contractor relationship. For example, the fact that the person for whom services are performed has the right or power without cause or on short notice to terminate the relationship with the individual performing the services, is relevant not only to control as a factor but also permanency as a factor. Generally, the right or power to terminate the relationship without cause or on short notice also points directly to the existence of the employer-employee relationship.

(d) *Explanation of factors*—(1) *Degree of control.* The higher the degree of control by the person for whom services are performed over the performance of such services by an individual, the more the "degree of control" factor tends to establish the dependence of the individual upon the business of such person as a matter of economic reality. Conversely, the lower the degree of control over the performance of the services, the less the "degree of control" factor tends to establish such dependence as a matter of economic reality.

It is to be especially emphasized, however, that the degree of control in a particular case may not be taken as conclusive of the existence of either the employer-employee relationship or independent contractor relationship, but that control is only one factor to be weighed together with the others for their composite effect. Although control is characteristically associated with the employer-employee relationship, determination of whether, as a matter of economic reality, an individual is an employee of the person for whom he is performing services, or is a independent contractor, is not to be made solely on the basis of control which such person may or can exercise over the details of such services. (See paragraph (c) of this section.)

Control of the nature here pertinent exists if supervision is or can be exercised over the performance of service. It is not necessary that the person for whom the services are performed actually control the performance of such services; it is sufficient that he have the right or power to do so.

In many cases the nature of the work, the method of remuneration, or the skill of the worker renders detailed control unnecessary or inappropriate, or distance renders its frequent exercise impracticable. In such instances the lack of detailed control does not necessarily mean that there is not some degree of control of the kind here pertinent. Control of the kind pertinent is not limited to the right of control or its exercise over the means and methods of performance as the common law has developed that test for tort liability and other purposes unrelated to social security legislation.

The right or power of control over the performance of an individual's services may be established either by its actual exercise or by the terms of any agreement under which the services are performed, or may be inferred from all the circumstances of the relationship viewed as a whole. Such right or power of control may in particular cases be established, in varying degrees, by one or more of a variety of circumstances, such as the performance of services as an integral part of the functions of the enterprise carried on by the person for whom the services are performed; the fact that the person for whom the services are performed furnishes the place for the work, or the tools or equipment; the fact that the individual's services are performed in accordance with procedures, or at times, fixed by the person for whom the services are performed rather than by the individual performing them; the fact that control over the individual's services by the person for whom the services are performed is necessary to the compliance by such person with laws or regulations applicable to the conduct of his enterprise; the fact that the arrangement contemplates essentially the performance by the individual of personal services which he may not delegate (whether or not the arrangement contemplates that the individual will also furnish the services of others) and the right or power of the person for whom the services are performed to control or change the amount of the individual's earnings from such services.

One of the most significant elements in establishing control is the right or power of the person for whom the services are performed to terminate the relationship without cause or on short notice. The individual performing the services knows that the relationship may be terminated by the exercise of such right or power if he does something at variance with the will, policy, or preference of the person for whom the services are performed. Such right or power is generally incompatible with the freedom from control enjoyed by an independent contractor.

(2) *Permanency of relation.* A permanent relationship between the person for whom services are performed and the individual performing them tends to establish the dependence of the individual upon the business of such person as a matter of economic reality. Conversely, an impermanent relationship tends to establish the independence of the individual from the business of such person as a matter of economic reality.

The permanency here pertinent implies continuity of the relation. Permanency may, however, be inferred if the work is performed at frequently recurring though somewhat irregular intervals, either on call of the person for whom the services are performed or at the election of the individual performing the services or whenever the work is available. Moreover, the continuity need not be evidenced by the performance of services on consecutive workdays. A relationship may be permanent whether the work is full time or part time. The relationship is permanent if the arrangement contemplates the performance of continuing or recurring work, even if the individual actually works only a short time.

The relation is impermanent if it is of limited duration and nonrecurring. It may be impermanent if there is a fixed time of termination in terms of a fixed date or a fixed or specified job or project to be completed. The fact that the person for whom services are performed has the right or power to terminate the relationship without cause or on short notice does not render the relation impermanent; on the contrary that fact raises an inference that the relation is of indefinite duration.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section)

(3) *Integration of individual's work in business to which he renders service.* Integration of the individual's work in the business of a person to which the individual renders service tends to establish the dependence of the individual upon the business of such person as a matter of economic reality. Conversely, the absence of integration of the individual's work in the business of a person tends to establish the independence of the individual from the business of such person as a matter of economic reality.

The integration here pertinent implies the merger of the individual's services into the business of a person, so that such services constitute a part of the unit or whole which comprises such business. In determining whether integration exists it is necessary to determine the scope and function of such person's business, and then to determine whether the services of the individual are merged into and performed in the course of such business.

Once the limits of the scope and function of the business are determined, the point at which, in the process of operation of such business, the services of the individual are performed is immaterial. Thus integration may exist whether the services of the individual are performed at the beginning or end or at any intermediate point, so long as they fall within the limits of the scope and function of the business.

Integration of the individual's services in the business of a person for whom the services are performed may in particular cases be established by one or more of a variety of circumstances, such as the fact that the services are essential to the operation of the business; the fact that the services, though not essential to the function of the business of the person for whom rendered, are performed in the course of such business; the fact that the services of the individual are performed in accordance with procedures, or at times, fixed by the person for whom they are performed; the fact that the person for whom the services are performed furnishes the place for the work, or the tools or equipment; the fact that the services performed by the individual are of the same nature and are performed in

the same manner as those performed by individuals admitted to be employees; the fact that the services of the individual are performed in or under the name or trade name of the person for whom the services are performed; the fact that the services of the individual support or affect good will of the person for whom the services are performed and not separate good will as an asset of the individual; the fact that the services of the individual are performed under the license of the person for whom the services are performed, or under any license which permits performance only for the person for whom the services are performed; and the fact that control over the individual's services by the person for whom the services are performed is necessary to the compliance by such person with laws or regulations applicable to the conduct of his enterprise.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section)

(4) *Skill required of the individual.* The higher the degree of skill required in the performance of services by an individual, the more the "skill" factor tends to establish the independence of the individual, as a matter of economic reality, from the business of the person for whom the services are performed. Conversely, the lower the degree of skill, the more the "skill" factor tends to establish the dependence of the individual, as a matter of economic reality, upon the business of the person for whom the services are performed. However, a requirement of little or no skill in the performance of the services is usually more indicative than is a requirement of a greater amount of skill in determining which relationship exists between the person for whom the services are performed and the individual performing them; that is, usually the absence of skill points more clearly toward an employer-employee relationship than the presence of skill points toward an independent contractor relationship.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section)

(5) *Investment by the individual in facilities for work.* The greater the investment by the individual in facilities used by him in performing services for a person, the more the "investment" factor tends to establish the independence of the individual from the business of such person as a matter of economic reality. Conversely, the smaller the investment by the individual in facilities used by him, the less the "investment" factor tends to establish such independence as a matter of economic reality.

The facilities here pertinent include equipment and premises available for the work or enterprise as distinguished from education, training, and experience, but do not include such tools, instruments, equipment, or clothing as are commonly or frequently provided by employees. A typical investment for the conduct of an independent enterprise is evidenced by the ownership of a separate establishment distinct from the premises of the person for whom the services are performed.

The reality and essentiality of the investment, and the adequacy of the facilities for the operation of an independent business, are important in evaluating the significance of this factor. For example, if the individual performing the services purchases a piece of equipment on a time basis either from the person for whom the services are performed or through the use of the credit of such person, and if the value of the individual's equity in the equipment is never substantial, the "investment" factor will have little or no significance as pointing to an independent contractor relationship. Likewise, the owership by the individual of facilities which are inadequate to perform services of the nature involved independently of the facilities of another will have little or no significance in pointing toward an independent contractor relationship. On the other hand, the ownership by the individual of facilities which are adequate to perform services of the nature involved independently of the facilities of another, will have significance in pointing toward an independent contractor relationship.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section)

(6) *Opportunities of the individual for profit or loss.* The greater the opportunities for profit or loss of an individual performing services for a person, the more the "profit or loss" factor tends to establish the independence of the individual from the business of such person as a matter of economic reality. Conversely, the lesser the opportunities of the individual for profit or loss, the less the "profit or loss" factor tends to establish such independence as a matter of economic reality.

"Profit or loss" generally implies the use of capital by the individual in a going business of his own. Thus, mere opportunity for higher earnings such as from pay on a piecework basis, or the possibility of gain or loss from a commission arrangement, without capital as a material income producing element, is not implied in the term "profit or loss" as here used. Whether a profit is realized or loss suffered is generally dependent to an important degree upon management decisions by the individual.

Opportunity for profit or loss may in particular cases be established, in varying degrees, by one or more of a variety of circumstances, such as the fact that the individual has continuing and recurring liabilities or obligations with risk of loss and opportunity for profit, depending upon the relation of receipts to expenditures and charges; the fact that the individual performing the services is assisted by helpers whom he is obligated to pay; the fact that the individual performs services under an agreement to complete a specific "job" or piece of work for a total remuneration or price agreed on in advance; and the fact that the services of the individual support or affect good will as an asset of his own rather than the separate good will of the person for whom the services are performed.

The weight to be given this factor in a particular case depends upon all the facts of that case (see paragraph (c) of this section)

(e) *Miscellaneous provisions.* All classes or grades of employees are included within the relationship of employer and employee. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is generally an employee of the corporation but a director as such is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, dealer, broker, distributor, vendee, lessee, independent contractor, or the like. The fact that an individual performing services is assisted therein by others of his own choosing, whom he compensates and supervises, is not necessarily inconsistent with the existence of the employer-employee relationship. In a doubtful case, however, this fact is some indication against, and the contrary is some indication in support of, the existence of such relationship. If in connection with the performance of services for an employer, an employee engages, supervises, or pays other employees to perform or assist in performing the services, with the express or implied consent of the employer, all such other employees also are employees of that employer in the rendition of such services.

On the other hand, the act does not convert into a relationship of employer and employee a normal business relationship where one business organization obtains the services of an independent business organization to perform a portion of production or distribution. Thus, as to the performance of such services, the owner of such independent business organization is not an employee within the meaning of the act, but is himself the employer of individuals in his employ.

If the employer-employee relationship exists, the form or method of compensation for the services is immaterial. Such compensation may be determined on a time or unit basis; it may be in whole or in part a commission; it may be denominated by the parties as an arrangement for purchase, rental, or other kind of transaction; or it may take the form of a retention by the employee of money collected by him from customers of the employer.

The form or method of compensation may, however, bear upon the question

whether the employer-employee relationship exists. Thus, payment of compensation on a salary or other time basis, especially where payment is made periodically, indicates that such relationship exists. Payment on a piecework basis and payment of commissions, though less clearly indicative, are other typical methods of compensating employees. Other forms of payment may be consistent with the existence of the employer-employee relationship. On the other hand, payment "by the job," where the work is of considerable duration and nonrecurring, is indicative of an independent contractor relationship.

Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, as not to constitute employment within the meaning of the act and the regulations in this part (see § 402.203).

PAR. 2. Section 403.204 of Regulations 107 (26 CFR 403.204) is amended by striking out the provisions of such section (other than the designation "§ 403.204") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "Federal Unemployment Tax Act" shall be substituted for the words "Federal Insurance Contributions Act" wherever such words appear in such amendment; (2) the following sentence shall be added at the end of the second paragraph of such amendment: "(The word 'employer' as used in this section only, notwithstanding the provisions of § 403.201 (a), includes a person who employs one or more employees.)"; and (3) the designation "§ 403.203" shall be substituted for the designation "§ 402.203" in the last sentence of such amendment.

PAR. 3. Article 205 of Regulations 90 (26 CFR 400.205) is amended by striking out the provisions of such article (other than the designation "Art. 205") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "Title IX of the Social Security Act" shall be substituted for the words "the Federal Insurance Contributions Act" wherever such words appear in such amendment; (2) the clause "of which such act is a part" and the comma immediately preceding such clause, appearing in the first sentence of such amendment, shall be deleted; (3) the following sentence shall be added at the end of the second paragraph of such amendment: "(The word 'employer' as used in this article only, notwithstanding the provisions of article 1 (a) (26 CFR 400.1 (a)), includes a person who employs one or more employees.)"; (4) the designation "this article" shall be substituted for the words "this section" in the last sentence of such amendment; and (5) the designation "article 206 (26 CFR 400.206)" shall be substituted for the designation "§ 402.203" in such sentence.

PAR. 4. Article 205 of Regulations 90 (26 CFR 400.205) as made applicable to the Internal Revenue Code by Treasury Decision 4035 (26 CFR, Cum. Supp., p. 5876) is amended by striking out the provisions of such article (other than the designation "Art. 205") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "the Federal Unemployment Tax Act" shall be substituted for the words "the Federal Insurance Contributions Act" or "the Act" wherever such words appear in such amendment; (2) the following sentence shall be added at the end of the second paragraph of such amendment: "(The word 'employer' as used in this article only, notwithstanding the provisions of article 1 (a) (26 CFR 400.1 (a)) includes a person who employs one or more employees.)"; (3) the designation "this article" shall be substituted for the words "this section" in the last sentence of such amendment; and (4) the designation "article 206 (26 CFR 400.206)" shall be substituted for the designation "§ 402.203" in such sentence.

PAR. 5. Article 3 of Regulations 91 (26 CFR 401.3) is amended by striking out the provisions of such article (other than the designation "Art. 3") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "Title VIII of the Social Security Act" shall be substituted for the words "the Federal Insurance Contribution Act" wherever such words appear in such amendment; (2) the clause "of which such Act is a part" and the comma immediately preceding such clause, appearing in the first sentence of such amendment, shall be deleted; (3) the designation "this article" shall be substituted for the words "this section" in the last sentence of such amendment; and (4) the designation "article 2 (26 CFR 401.2)" shall be substituted for the designation "§ 402.203" in such sentence.

PAR. 6. Article 3 of Regulations 91 (26 CFR 401.3) as made applicable to the Internal Revenue Code by Treasury Decision 4035 (26 CFR, Cum. Supp., p. 5876) is amended by striking out the provisions of such article (other than the designation "Art. 3") and by inserting in lieu thereof the provisions of the amendment to § 402.204 of Regulations 106 made by paragraph 1 of this Treasury decision, except that (1) the designation "the Federal Insurance Contributions Act" shall be substituted for the words "the Act" wherever such words appear in such amendment; (2) the designation "this article" shall be substituted for the words "this section" in the last sentence of such amendment; and (3) the designation "article 2 (26 CFR 401.2)" shall be substituted for the designation "§ 402.203" in such sentence.

PAR. 7. The amendment to Regulations 106 (26 CFR, Part 402) made by paragraph 1 of this Treasury decision and the amendment to Regulations 107 (26 CFR, Part 403) made by paragraph 2 of this Treasury decision shall be applicable with respect to services performed after December 31, 1939. The amendment to Regulations 90 (26 CFR, Part 400) made by paragraph 3 of this Treasury decision shall be applicable with respect to services performed after December 31, 1935, and prior to January 1, 1939. The amendment to Regulations 90 (26 CFR, Part 400) as made applicable to the Internal Revenue Code by Treasury Decision 4035 (26 CFR, Cum. Supp., p. 5876) made by paragraph 4 of this Treasury decision, shall be applicable with respect to services performed after December 31, 1936, and prior to January 1, 1940. The amendment to Regulations 91 (26 CFR, Part 401) made by paragraph 5 of this Treasury decision shall be applicable with respect to services performed after December 31, 1936, and prior to April 1, 1939. The amendment to Regulations 91 (26 CFR, Part 401) as made applicable to the Internal Revenue Code by Treasury Decision 4035 (26 CFR, Cum. Supp., p. 5876), made by paragraph 6 of this Treasury decision, shall be applicable with respect to services performed after March 31, 1939, and prior to January 1, 1940.

PAR. 8. Pursuant to the authority of section 3791 (b) of the Internal Revenue Code, the amendments made by this Treasury decision to the respective regulations will be applied without retroactive effect to the extent that a taxpayer will not be required to pay taxes for periods prior to January 1, 1943, with respect to wages paid prior to such date to individuals if (1) the individuals were deemed not to be employees under a written ruling in the taxpayer's case, or other written ruling upon which he reasonably relied, issued prior to January 1, 1943, by the Commissioner of Internal Revenue, a Deputy Commissioner, a Collector, or other duly authorized representative of the Bureau of Internal Revenue, (2) such taxpayer files returns or supplemental returns on Form SS-1a or statements on Form SS-1c to furnish or correct wage information with respect to wages paid to such individuals during the period January 1, 1944, to December 31, 1947, inclusive, to the extent that such wage information is obtainable, and (3) such taxpayer files with the Collector a statement under oath (a) adequately identifying the ruling in his case, or other ruling upon which he relied, and, if not a ruling in his case, stating the reasons he believes himself to have been entitled to rely on such other ruling, (b) stating whether or not the wage information furnished to the Collector is complete, and stating in what respect, if any, it is incomplete, and (c) if the wage information is not obtainable or is incomplete, setting forth the reasons therefor. The granting of similar relief from the payment of taxes for periods prior to January 1, 1943, under other circumstances will depend upon the facts in the particular case.

[F. R. Doc. 47-10511; Filed, Nov. 26, 1947; 8:48 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[1380244]

CALIFORNIA

NOTICE OF FILING OF PLAT OF DEPENDENT RESURVEY AND EXTENSION SURVEY ACCEPTED JANUARY 24, 1945

NOVEMBER 20, 1947.

Notice is given that the plat of (1) dependent resurvey in part of secs. 23, 24 and 35, T. 22 N., R. 11 E., Mount Diablo Meridian, California, delineating a retracement and reestablishment of the lines of the original survey as shown upon the plat approved March 13, 1883, and (2) extension survey of secs. 23, 24, 25, 26, 35 and 36, T. 22 N., R. 11 E., Mount Diablo Meridian, California, including lands hereinafter described, will be officially filed in the District Land Office, Sacramento, California, effective at 10:00 a. m. on January 22, 1948.

MOUNT DIABLO MERIDIAN

T. 22 N., R. 11 E.,
Sec. 23, lot 11;
Sec. 24, lots 12 to 17, inclusive;
Sec. 25, lots 1 to 11, inclusive, SW¼NE¼, W½SE¼,
Sec. 26, lots 1 to 7, inclusive;
Sec. 35, lots 1 to 12, inclusive;
Sec. 36, lots 1 to 16, inclusive.

The total area, exclusive of segregations aggregates 1,989.61 acres.

All of the lands involved are within the limits of the Plumas National Forest, the public lands therein having been first withdrawn for forest purposes pursuant to Proclamation of March 27, 1905. The lands and a portion thereof are also affected by Proclamations of May 27, 1907, and March 2, 1909, Executive Order of July 1, 1908, and Executive Order No. 4203 of April 14, 1925.

Lots 1, 2, 7, 8, 9, 10, 11, 12, sec. 35, lots 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, sec. 36, T. 22 N., R. 11 E., are included in Power Project No. 249 of September 14, 1921, as conformed February 15, 1946.

Anyone having a valid settlement or other right to any of these lands, initiated prior to the withdrawal of March 27, 1905, should assert the same within three months from the date on which the plat is officially filed by filing an application under appropriate public land law setting forth all facts relevant thereto.

All inquiries relating to these lands should be addressed to the Acting Manager, District Land Office, Sacramento, California.

FRED W JOHNSON,
Director

[F. R. Doc. 47-10459; Filed, Nov. 26, 1947; 8:47 a. m.]

[1828390]

ARIZONA

NOTICE OF FILING OF PLAT OF SURVEY ACCEPTED SEPTEMBER 26, 1945

NOVEMBER 19, 1947.

Notice is given that the plats of (1) dependent resurvey of all of Tps. 17 and 18 S., Rs. 14 E., N½ sec. 23, NW¼ sec. 27, NW¼ sec. 33 and SE¼ sec. 35, T. 16 S., R. 23 E., G. & S. R. M., Arizona, delineating the retracement and reestablishment of the lines of the original survey as shown upon the plats approved January 25, 1873, March 8, 1873, January 23, 1897 and June 24, 1904, and (2) extension survey completing the subdivision of T. 16 S., R. 23 E., G. & S. R. M., including lands hereinafter described, will be officially filed in the District Land Office, Phoenix, Arizona, effective at 10:00 a. m. on January 21, 1948. At that time the lands hereinafter described shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from January 21, 1948, to April 20, 1948, inclusive, the public lands affected by this notice shall be subject to (1) application under the homestead or the desert land laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a) as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279–283) subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans shall be subject to claims of the classes described in subdivision (2)

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from January 1, 1948, to January 21, 1948, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their application, and all such applications, together with those presented at 10:00 a. m. on January 21, 1948, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on April 21, 1948, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference-right filings.* Applications by the general public may be presented during the 20-day period from April 1, 1948, to April 21, 1948, inclusive, and all such applications, together with those presented at 10:00 a. m. on April 21, 1948, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office, Phoenix, Arizona, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254), and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations and applications under the desert land laws and the small tract act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Acting Manager, District Land Office, Phoenix, Arizona.

The lands affected by this notice are described as follows:

GILA AND SALT RIVER MERIDIAN

T. 16 S., R. 23 E.,
Sec. 23, S½;
Sec. 26, all;
Sec. 27, E½, SW¼,
Sec. 33, lots 1 to 9, inclusive, NE¼SW¼, N½SE¼,
Sec. 34, all;
Sec. 35, lots 1 to 7, inclusive, N½NE¼, NW¼NW¼, W½SW¼.

The area described aggregates 3,091.26 acres.

All of the above lands described in secs. 26, 27, 33, 34 and 35, T. 16 S., R. 23 E., G. & S. R. M., are within the limits of the Coronado National Forest having been first withdrawn for forest purposes by Proclamation of May 25, 1907 and Executive Order No. 2630 of June 6, 1917.

These lands are desert lands, varying from nearly level to rugged in topography.

FRED W. JOHNSON,
Director

[F. R. Doc. 47-10458; Filed, Nov. 26, 1947; 8:47 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 8618, 8619]

WHP INC. AND HAROLD O. BISHOP

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of WHP, Inc., Harrisburg, Pennsylvania, Docket No. 8618, File No. BPCT-192; Harold O. Bishop, Harrisburg, Pennsylvania, Docket No. 8619, File No. BPCT-201, for construction permits for commercial television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on 13th day of November 1947;

The Commission having under consideration the above-entitled applications for construction permits for new television broadcast stations;

It appearing, that WHP Inc. (File No. BPCT–192) and Harold O. Bishop (File No. BPCT–201) each request a separate television channel for serving the Harrisburg metropolitan area; and

It further appearing, that the above applications are mutually exclusive because under § 3.606 of the Commission's rules and regulations but one television channel (No. 8) is allocated to the Harrisburg metropolitan area; and

It further appearing, that in Reallocation Hearing Docket No. 8487 it is proposed to change the television channel allocated to the Harrisburg metropolitan area from Channel No. 8 to Channel No. 10;

It is ordered, That pursuant to section 309 (a) of the Communications Act of 1934, as amended, the above-entitled applications are hereby designated for hearing in a consolidated proceeding at a time and place to be designated by the Commission, upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the applicant to operate and construct the proposed station.

2. To obtain full information with respect to the nature and character of the proposed program service.

3. To determine the areas and populations which may be expected to receive service from the proposed station.

4. To determine on a comparative basis which, if any, of the applications in this consolidated proceeding should be granted.

It is further ordered, That the television channel requests of the applicants involved in this consolidated proceeding, be, and are hereby made subject to the Commission's decision in Reallocation Hearing Docket No. 8487.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47–10478; Filed, Nov. 26, 1947; 8:54 a. m.]

[Docket No. 8632]

LIBERTY STREET GOSPEL CHURCH OF LAPEER (WMPC)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of The Liberty Street Gospel Church of Lapeer (WMPC) Lapeer, Michigan, Docket No. 8632, File No. BML–1271, for modification of license.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 13th day of November 1947;

The Commission having under consideration the above-entitled application of The Liberty Street Gospel Church at Lapeer which requests authority to increase its hours of operation on 1230 kc, with 250 w power at Lapeer, Michigan, from specified hours to unlimited time except on Saturday;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application be, and it is hereby, designated for hearing, at a time and place to be designated by subsequent order of the Commission, upon the following issues:

1. To determine the technical, financial, and other qualifications of the applicant, its officers, trustees and members to operate station WMPC as proposed.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of station WMPC as proposed and the character of other broadcast service available to those areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of station WMPC as proposed would involve objectionable interference with stations WTOL, Toledo, Ohio and WJEF Grand Rapids, Michigan or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of station WMPC as proposed would involve objectionable interference with the services proposed in any pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of station WMPC as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

It is further ordered, That, Community Broadcasting Company, licensee of station WTOL, Toledo, Ohio, and John E. Fetzer and Rhea Y. Fetzer, d/b as Fetzer Broadcasting Company, licensee of station WJEF Grand Rapids, Michigan, be, and they are hereby, made parties to this proceeding.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47–10479; Filed, Nov. 26, 1947; 8:54 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G–915]

UNITED GAS PIPE LINE CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NOVEMBER 21, 1947.

Notice is hereby given that, on November 21, 1947, the Federal Power Commission issued its findings and order entered November 20, 1947, issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47–10467; Filed, Nov. 26, 1947; 8:48 a. m.]

[Docket No. G–923]

UNITED GAS PIPE LINE CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NOVEMBER 21, 1947.

Notice is hereby given that, on November 21, 1947, the Federal Power Commission issued its findings and order entered November 20, 1947, issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47–10468; Filed, Nov. 26, 1947; 8:48 a. m.]

[Docket No. G–923]

UNITED GAS PIPE LINE CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NOVEMBER 21, 1947.

Notice is hereby given that, on November 21, 1947, the Federal Power Commission issued its findings and order entered November 20, 1947, issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47–10469; Filed, Nov. 26, 1947; 8:48 a. m.]

[Project No. 16]

NIAGARA FALLS POWER CO.

NOTICE OF OPINION AND ORDER

NOVEMBER 21, 1947.

Notice is hereby given that, on November 21, 1947, the Federal Power Commission issued its opinion No. 159 and order entered November 17, 1947, denying application for amendment of license in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47–10469; Filed, Nov. 26, 1947; 8:48 a. m.]

[Project No. 1976]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

NOTICE OF ORDER DISMISSING APPLICATION FOR LICENSE (TRANSMISSION LINE)

NOVEMBER 21, 1947.

Notice is hereby given that, on November 18, 1947, the Federal Power Commission issued its order entered November 17, 1947, dismissing application for license (transmission line) in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47–10470; Filed, Nov. 26, 1947; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 790, Special Directive 13]

CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

ORDER TO FURNISH CARS FOR TRANSPORTATION OF COAL

On November 18, 1947, the Fort Dodge, Des Moines & Southern Railway Company has certified that it has on that date in storage and in cars a total supply of 3 days of fuel coal, and that it is immediately essential that this company increase its coal supply from certain enumerated mines.

The certified statements have been verified and found to be correct.

Therefore, pursuant to the authority vested in me by paragraph (b) of Service Order No. 790, the Chicago, Burlington & Quincy Railroad Company is directed:

(1) To furnish daily to Dunreath Coal Co. mine, Busse, Iowa, a total of 3 flat-bottom gondola cars for the loading of FtDDM&S Ry. fuel coal from its total available supply of cars suitable for the transportation of coal.

(2) That such cars furnished in excess of the mines' distributive share for the day will not be counted against said mines.

(3) That it shall not accept billing on cars furnished for loading under the provisions of this directive unless billed for FtDDM&S Ry. fuel coal supply.

(4) To furnish this Bureau, as soon as may be practicable after the end of each week, information showing the total number of cars furnished to said mines for the preceding week under the authority of this directive and to indicate with respect to each mine how many such cars were in excess of the daily distributive share of car supply of such mine.

A copy of this special directive shall be served upon the Chicago, Burlington & Quincy Railroad Company and notice of this directive shall be given the public by depositing a copy in the office of the Secretary of the Commission, Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

Issued at Washington, D. C., this 20th day of November A. D. 1947.

HOMER C. KING,
Director
Bureau of Service.

[F R. Doc. 47-10472; Filed, Nov. 26, 1947; 8:48 a. m.]

[S. O. 790, Special Directive 15]

MONTOUR RAILROAD CO.

ORDER TO FURNISH CARS FOR TRANSPORTATION OF COAL

On November 20, 1947, The New York Central Railroad Company certified that they have on that date in storage and in cars a total supply of 10.8 days of fuel coal, and that it is immediately essential that this company increase its coal supply from certain enumerated mines.

The certified statements have been verified and found to be correct.

Therefore, pursuant to the authority vested in me by paragraph (b) of Service Order No. 790, The Montour Railroad Company is directed:

(1) To furnish daily to the mines listed below cars for the loading of The New York Central Railroad fuel coal in the number specified from its total available supply of cars suitable for the transportation of coal: Champion (Washer) 22 cars; Jean & Russell 9 cars; Rider No. 4 (Aloe Mine) 10 cars; and Imperial (Sunnyhill) 2 cars.

(2) That such cars furnished in excess of the mines' distributive share for the day will not be counted against said mines.

(3) That it shall not accept billing of cars furnished for loading under the provisions of this directive unless billed for the New York Central Railroad fuel coal supply.

(4) To furnish this Bureau, as soon as may be practicable after the end of each week, information showing the total number of cars furnished to said mines for the preceding week under the authority of this directive and to indicate with respect to each mine how many such cars were in excess of the daily distributive share of car supply of such mine.

A copy of this special directive shall be served upon The Montour Railroad Company and notice of this directive shall be given the public by depositing a copy in the office of the Secretary of the Commission, Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

Issued at Washington, D. C., this 20th day of November A. D. 1947.

HOMER C. KING,
Director
Bureau of Service.

[F. R. Doc. 47-10473; Filed, Nov. 26, 1947; 8:49 a. m.]

[S. O. 790, Special Directive 16]

MONONGAHELA RAILWAY CO.

ORDER TO FURNISH CARS FOR TRANSPORTATION OF COAL

On November 20, 1947, The New York Central Railroad Company certified that they have on that date in storage and in cars a total supply of 10.8 days of fuel coal, and that it is immediately essential that this company increase their coal supply from certain enumerated mines.

The certified statements have been verified and found to be correct.

Therefore, pursuant to the authority vested in me by paragraph (b) of Service Order No. 790, The Monongahela Railway Company is directed:

(1) To furnish daily to the mines listed below cars for the loading of The New York Central Railroad fuel coal in the number specified from its total available supply of cars suitable for the transportation of coal: Pursglove No. 15, Arkright, and Pursglove No. 2, 42 cars; Federal No. 1 & 3, 15 cars; Christopher No. 2 & 3, 7 cars; Brock 5 cars; Bunker 9 cars; Dillinger 9 cars; Nassar No. 2 & 4, 3 cars; Byrne No. 2, 2 cars; and Martin No. 2, 2 cars.

(2) That such cars furnished in excess of the mines' distributive share for the day will not be counted against said mines.

(3) That it shall not accept billing of cars furnished for loading under the provisions of this directive unless billed for the New York Central Railroad fuel coal supply.

(4) To furnish this Bureau, as soon as may be practicable after the end of each week, information showing the total number of cars furnished to said mines for the preceding week under the authority of this directive and to indicate with respect to each mine how many such cars were in excess of the daily distributive share of car supply of such mine.

A copy of this special directive shall be served upon The Monongahela Railway Company and notice of this directive shall be given the public by depositing a copy in the office of the Secretary of the Commission, Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

Issued at Washington, D. C., this 20th day of November A. D. 1947.

HOMER C. KING,
Director,
Bureau of Service.

[F. R. Doc. 47-10474; Filed, Nov. 26, 1947; 8:49 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1001]

JONES & LAUGHLIN STEEL CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 21st day of November A. D. 1947.

The Boston Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, Without Par Value, of Jones & Laughlin Steel Corporation, a security listed and registered on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Philadelphia, Pennsylvania.

Notice is hereby given that, upon request of any interested person received prior to December 22, 1947, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Philadelphia, Pennsylvania.

If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant to the Secretary.*

[F. R. Doc. 47-10464; Filed, Nov. 26, 1947; 8:48 a. m.]

[File No. 7-1014]

ALLEGHANY CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 21st day of November A. D. 1947.

The Los Angeles Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, $1.00 Par Value, of Alleghany Corporation, a security listed and registered on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Philadelphia, Pennsylvania.

Notice is hereby given that, upon request of any interested person received prior to December 22, 1947, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Philadelphia, Pennsylvania. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant to the Secretary.*

[F. R. Doc. 47-10462; Filed, Nov. 26, 1947; 8:47 a. m.]

[File Nos. 31-58, 70-1605, 70-1663]

CENTRAL ILLINOIS PUBLIC SERVICE CO. ET AL.

ORDER CONTINUING EXEMPTION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 21st day of November A. D. 1947.

In the matter of Central Illinois Public Service Company, File No. 70-1663; The Middle West Corporation, Central Illinois Public Service Company, Halsey, Stuart & Co., Inc., File No. 70-1605; Halsey, Stuart & Co., Inc., File No. 31-58.

The Commission having, by order dated October 15, 1946, granted, among other things, an exemption to Halsey, Stuart & Co., Inc. ("Halsey") from the provisions of the Public Utility Holding Company Act of 1935 ("act") which would require it to register as a holding company because of its owning, controlling or holding with power to vote ten per centum or more of the outstanding voting securities of Central Illinois Public Service Company ("Cips") and such exemption having expired by the terms of said order on November 13, 1947; and Halsey having filed an application in these proceedings for a continuation of the above-mentioned exemption for an additional period of one year from the date of a proposed acquisition of additional shares of Cips' common stock, and said application having been consolidated with an application by Cips for the issuance and sale of $10,000,000 principal amount of its First Mortgage Bonds, Series B, ...%, due September 1, 1977; and

The Commission having, by order dated November 12, 1947, continued the exemption of Halsey from the registration provisions of the act to November 21, 1947.

The Commission deeming it appropriate pending its final determination in these consolidated proceedings to continue such exemption:

It is hereby ordered, That the exemption of Halsey, Stuart & Co., Inc., from those provisions of the Public Utility Holding Company Act of 1935 which would require it to register as a holding company because of its owning, controlling or holding with power to vote ten per centum or more of the outstanding voting securities of Cips be, and the same hereby is, continued to such time as the Commission shall issue its order with respect to the aforementioned applications.

It is further ordered, That jurisdiction be, and the same hereby is, reserved to enter such further orders in these proceedings as may be necessary or appropriate in the public interest or for the protection of investors or consumers.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant to the Secretary.*

[F. R. Doc. 47-10463; Filed, Nov. 26, 1947; 8:47 a. m.]

[File Nos. 54-75, 70-729]

THE COMMONWEALTH & SOUTHERN CORP. (DELAWARE)

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 21st day of November 1947.

Notice is hereby given that an application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by The Commonwealth & Southern Corporation ("Commonwealth"), a registered holding company. Applicant designates sections 11 and 12 (c) of the act and Rule U-46 as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than November 29, 1947, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be given on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application-declaration proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter, such application-declaration, as filed or as amended, may be permitted to become effective or may be granted as provided in Rule U-23 of the rules and regulations promulgated pursuant to said act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania.

All interested persons are referred to said application-declaration which is on file in the office of the Commission, for a statement of the transaction therein proposed which is summarized below:

Commonwealth proposes, subject to the approval of the Commission, to pay a dividend of $3 per share or an aggregate of $4,323,741 on the shares of its outstanding preferred stock. The dividend was declared on November 18, 1947, and is payable on the 28th day after the date of the order of this Commission permitting such payment or on January 2, 1948, whichever date is later, to stockholders of record at the close of business on the 10th day after the date of such order (or if such 10th day is not a business day, the first business day following such 10th day) or on December 12, 1948, whichever date is later. The Commission action requested in the pending application is similar in substance to the Commission action requested in three applications approved by the Commission in 1943, four applications approved in 1944, four applications approved in 1945, four applications approved in 1946, and three approved in 1947, covering proposed distributions to preferred stockholders.

The applicant requests that the Commission's order be issued herein on or before December 1, 1947, and become effective forthwith.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant to the Secretary.*

[F. R. Doc. 47-10465; Filed, Nov. 26, 1947; 8:47 a. m.]

[File No. 70-1652]

APPALACHIAN ELECTRIC POWER CO. AND AMERICAN GAS AND ELECTRIC CO.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its

office in the city of Philadelphia, Pa., on the 19th day of November A. D. 1947.

American Gas and Electric Company ("American Gas") a registered holding company, and its electric utility subsidiary, Appalachian Electric Power Company ("Appalachian") having filed a joint application-declaration and amendment thereto under the Public Utility Holding Company Act of 1935 particularly sections 6 (b) 7, 10 and 12 (c) thereof and Rules U-42 and U-50 thereunder regarding the issue and sale by Appalachian of $28,000,000 principal amount of First Mortgage Bond __% Series due 1977, 75,000 shares of __% Cumulative Preferred Stock of the par value of $100 per share, and 30,023 shares of common stock without nominal or par value. The bonds are proposed to be sold pursuant to the competitive bidding requirements of Rule U-50. The preferred stock is to be offered for subscription to the holders of Appalachian's outstanding preferred stock on a pro rata basis and the unsubscribed for shares sold to the underwriters for resale to the public. The common stock is to be sold to American Gas for a cash consideration of $10,000,000; and

Appalachian having requested an exemption from the competitive bidding requirements of Rule U-50 in connection with the issuance and sale of the preferred stock; and

Appalachian having further requested an exemption from the provisions of Rule U-42 to the extent necessary to meet the sinking fund requirements annually on the preferred stock proposed to be issued; and

American Gas having requested that the order of the Commission conform to the requirements of section 1808 (f) and Supplement R of the Internal Revenue Code, as amended, and contain the findings therein specified; and

A public hearing having been held on said application-declaration, as amended, after appropriate notice, and the Commission having examined the record and having made and filed its findings and opinion herein:

It is ordered, That the said application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith subject to the terms and conditions contained in Rule U-24 and subject to the following additional terms and conditions:

(1) That so long as any shares of the Cumulative Preferred Stock are outstanding, the Company shall not declare or pay any dividends on the Common Stock, except as follows:

(i) if and so long as the Common Stock Equity at the end of the calendar month immediately preceding the date on which a dividend on Common Stock is declared is, or as a result of such dividend would become, less than 20% of total capitalization, Appalachian shall not declare dividends on the common stock in an amount which, together with all other dividends on Common Stock declared within the year ending with (but including) the date of such dividend declaration, exceeds 50% of the net income of Appalachian available for dividends on the Common Stock for the twelve full calendar months immediately preceding the month in which such dividends are declared, and

(ii) if and so long as the Common Stock Equity at the end of the calendar month immediately preceding the date on which a dividend on Common Stock is declared is, or as a result of such dividend would become, less than 25% but not less than 20% of total capitalization, Appalachian shall not declare dividends on the Common Stock in an amount which, together with all other dividends on Common Stock declared within the year ending with (but including) the date of such dividend declaration, exceeds 75% of the net income of Appalachian available for dividends on the Common Stock for twelve full calendar months immediately preceding the month in which such dividends are declared, and

(iii) at any time when the Common Stock Equity is 25% or more of total capitalization, Appalachian may not pay dividends on shares of the Common Stock which would reduce the Common Stock Equity below 25% of total capitalization except to the extent provided in paragraphs (i) and (ii) above.

The term "Common Stock Equity" (as that term is used in this and the foregoing paragraphs) shall mean the sum of the stated value of the outstanding Common Stock and the Earned Surplus and the Capital and Paid-In-Surplus of the Company whether or not available for the payment of dividends on the Common Stock.

The term "Total Capitalization" shall mean the sum of the stated capital applicable to the outstanding stock of all classes of the company, the Earned Surplus, and the Capital and Paid-In-Surplus of the Company whether or not available for payment of dividends on the Common Stock of the Company, any premium on Capital Stock of the Company, and the principal amount of all outstanding debt of the Company maturing more than twelve months after the date of the determination of the Total Capitalization.

The term "Dividends on Common Stock" shall embrace dividends on Common Stock (other than dividends payable only in shares of Common Stock) distributions on, and purchases or other acquisitions for value of, any Common Stock of the Company or other stock, if any, subordinate to its Cumulative Preferred Stock.

(2) So long as any shares of the Cumulative Preferred Stock are outstanding, the Company shall not, without the consent (given by vote at a meeting called for that purpose) of the holders of a majority of the total number of shares of the Cumulative Preferred Stock then outstanding, issue, sell, or otherwise dispose of any shares of the Cumulative Preferred Stock (in addition to the 375,000 shares of Cumulative Preferred Stock to be outstanding upon completion of this financing) or of any other class of stock ranking prior to, or on a parity with, the Cumulative Preferred Stock as to dividends or distributions, unless the aggregate of the capital of the Company applicable to the Common Stock and the surplus of the Company shall be not less than the aggregate amount payable on the involuntary dissolution, liquidation or winding up of the Company, in respect of all shares of the Cumulative Preferred Stock and all shares of stock, if any, ranking prior thereto, or on a parity therewith, as to dividends or distributions, which will be outstanding after the issue of the shares proposed to be issued: *Provided,* That if, for the purposes of meeting the requirements of this provision, it becomes necessary to take into consideration any earned surplus of the Company, the Company shall not thereafter pay any dividends on shares of the Common Stock which would result in reducing the Company's Common Stock Equity (the words "Common Stock Equity" meaning the sum of the stated value of the outstanding Common Stock and the earned surplus and the capital and paid-in surplus of the Company, whether or not available for the payment of dividends on the Common Stock) to an amount less than the aggregate amount payable on involuntary dissolution, liquidation or winding up of the Company on all shares of the Cumulative Preferred Stock and of any stock ranking prior to, or on a parity with, the Cumulative Preferred Stock, as to dividends or other distributions, at the time outstanding.

It is further ordered, That the application for exemption from the competitive bidding requirements of Rule U-50 be, and the same hereby is, granted, subject to a reservation of jurisdiction with respect to the results of negotiation, the fees and commissions to be paid the underwriters and the allocation thereof; and

It is further ordered, That jurisdiction be, and hereby is, reserved, with respect to the terms and conditions of the bonds insofar as the same are to be determined by competitive bidding, the underwriters' compensation and its allocation and over-all legal fees proposed to be paid in connection with the proposed transaction; and

It is further ordered, That so long as any shares of the __% Cumulative Preferred Stock herein authorized remain outstanding, the requirements of Rule U-42 (or of any similar rule or regulation relating to the acquisition, retirement or redemption of capital stock by a registered holding company or subsidiary thereof promulgated by the Commission under the provisions of the Public Utility Holding Company Act of 1935) shall not apply to the acquisition, retirement or redemption in any period of 12 consecutive calendar months immediately preceding any November 30, of such number of shares of the __% Cumulative Preferred Stock herein authorized as may be necessary to meet the sinking fund requirement for the year ending on such November 30, or to the acquisition, retirement or redemption of shares of the __% Cumulative Preferred Stock thereafter, pursuant to the requirements of the Sinking Fund through the use of any funds theretofore set aside in the sinking fund: *Provided, however,* That this exemption shall not be applicable at any time that dividends on any series of the Cumulative Preferred Stock are in ar-

rears: *And provided further* That the company shall report to the Commission within a period of 120 days after each such November 30 of each year, the extent of purchases and redemptions of shares of the __% Cumulative Preferred Stock pursuant to the provisions of the sinking fund.

It is further ordered and recited, That the use by American Gas of the proceeds of the sale of 343,106 shares of the common stock of Atlantic City Electric Company, as permitted by our order of September 16, 1947, in connection with the purchase from Appalachian of 30,023 shares of the Common Stock of Appalachian and the sale of said 30,023 shares of Common Stock by Appalachian to American Gas for $10,000,000 cash are necessary or appropriate to the integration or simplification of the holding company system of which American Gas and Appalachian are members and necessary or appropriate to effectuate the provisions of subsection (b) of section 11 of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-10465; Filed, Nov. 26, 1947; 8:48 a. m.]

[File No. 812-518]

AMERICAN GENERAL CORP. ET AL.

NOTICE OF APPLICATION

At a regular meeting of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 21st day of November A. D. 1947.

In the matter of American General Corporation, General Reinsurance Corporation, and North Star Reinsurance Corporation, File No. 812-518.

Notice is hereby given that North Star Reinsurance Corporation has filed an application pursuant to section 17 (b) of the Investment Company Act of 1940 for an order exempting from the provisions of section 17 (a) of the act a transaction in which North Star Reinsurance Corporation will issue and sell 30,000 shares of $4 Dividend Preferred Stock, $10 par value, to General Reinsurance Corporation, at a price of $100 per share. American General Corporation, a registered investment company, owns 36.57% of the voting stock of General Reinsurance Corporation, and General Reinsurance Corporation owns over 99% of the outstanding stock of North Star Reinsurance Corporation.

All interested persons are referred to said application, which is on file at the Philadelphia, Pennsylvania offices of this Commission, for a detailed statement of the matters of fact and law therein asserted.

Notice is further given that an order granting the application may be issued by the Commission at any time after December 2, 1947 unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than December 1, 1947, at 5:30 p. m., submit to the Commission in writing his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant to the Secretary.*

[F. R. Doc. 47-10461; Filed, Nov. 26, 1947; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9341]

PETER J. KORT

In re: Estate of Peter J. Kort, deceased. File D-28-10865; E. T. sec. 15273.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Maria Kort and Mamie Kort, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the sum of $2,887.86 was paid to the Attorney General of the United States by Walter M. Alt, Administrator De Bonis Non with the Will Annexed, of the Estate of Peter J. Kort, deceased;

3. That the sum of $2,887.86 was accepted by the Attorney General of the United States on June 20, 1947, pursuant to the Trading with the Enemy Act, as amended;

4. That the said sum of $2,887.86 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

5. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 7, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON, *Assistant Attorney General, Director Office of Alien Property.*

[F. R. Doc. 47-10429; Filed, Nov. 26, 1947; 8:54 a. m.]

[Vesting Order 9345]

ROSA LAWTON

In re: Estate of Rosa Lawton, deceased. File D-28-9833; E. T. sec. 13963.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Ruth Eggstein, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the sum of $5,720.71 was paid to the Alien Property Custodian by Herman F. Notz, Jr., Administrator of the Estate of Rosa Lawton, deceased;

3. That the said sum of $5,720.71 was accepted by the Attorney General of the United States on December 13, 1946, pursuant to the Trading with the Enemy Act, as amended;

4. That the sum of $5,720.71 is presently in the possession of the Attorney General of the United States and was property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which was evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

5. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

This vesting order is issued nunc pro tunc to confirm the vesting of the said property by acceptance as aforesaid.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 7, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-10481; Filed, Nov. 26, 1947; 8:54 a. m.]

[Vesting Order 10111]

KATHARINA SCHIMPF

In re: Estate of Katharina Schimpf, deceased. File No. D-28-12112; E. T. sec. 16301.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anton Beck, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the brothers and sisters, names unknown, of Katharina Schimpf, deceased; issue, names unknown, of deceased brothers and sisters, names unknown, of Katharina Schimpf, deceased, and Hermann Schimpf, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

3. That all right, title, interest and claim of any kind of character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Katharina Schimpf, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

4. That such property is in the process of administration by Marie M. Hauser, as executrix, acting under the judicial supervision of th Orphans' Court of Allegheny County, Pennsylvania;

and it is hereby determined:

5. That to the extent that the person, identified in subparagraph 1 and the brothers and sisters, names unknown, of Katharina Schimpf, deceased, issue, names unknown, of deceased brothers and sisters, names unknown, of Katharina Schimpf, deceased, and Hermann Schimpf, are not within a designated enemy country, the national interest of the United States requres that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 13, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-10482; Filed, Nov. 26, 1947; 8:54 a. m.]

[Supp. Vesting Order 10193]

HERMAN VOLLRATH HILPRECHT

In re: Trust u/w of Herman Vollrath Hilprecht, deceased. File No. D-28-2208; E. T. sec. 2766.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next-of-kin, legatees, and distributees, names unknown, of Friedrich Wilhelm Robert Bierstedt, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to a trust created under the will of Herman Vollrath Hilprecht, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by The Pennsylvania Company for Banking and Trusts, as trustee, acting under the judicial supervision of the Orphans' Court of Philadelphia County, Pennsylvania;

and it is hereby determined:

4. That to the extent that the personal representatives, heirs, next-of-kin, legatees and distributees, names unknown, of Friedrich Wilhelm Robert Bierstedt, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-10483; Filed, Nov. 26, 1947; 8:54 a. m.]

[Vesting Order 10181]

KAROLINE LUISE SPECHT ET AL.

In re: Bonds and mortgages, property insurance policies and claim owned by Karoline Luise Specht, and others.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karoline Luise Specht, August Friedrich Specht, Elfriede Specht, Herman Specht and Selma Marie Specht, whose last known addresses are Barduettingdorf No. 53, Kreis Herford, Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That the property described as follows:

a. A mortgage executed on July 17, 1936, by D. Erastus Hubbard and Annie E. Hubbard, his wife, to Marie Specht, and recorded on July 18, 1936, in the Office of the Clerk of Suffolk County, New York, in Liber 994 of Mortgages, at Page 384, which mortgage was assigned by Ellis T. Terry, as Administrator of the goods, chattels and credits of Herman Specht, deceased, to Alfred K. Nippert and/or Louis Nippert, attorneys in fact for Karoline Luise Specht, by assignment, dated November 16, 1942, and recorded in the Office of the Clerk of Suffolk County, New York, on November 24, 1942, in Liber 1186 of Mortgages, at Page 241, and any and all obligations secured by said mortgage, including but not limited to all security rights in and to any and all collateral (including the aforesaid mortgage) for any and all such obligations and the right to enforce and collect such obligations and the right to possession of any and all notes, bonds and other instruments evidencing such obligations,

b. A mortgage executed on July 14, 1932, by John E. Corcoran and Mary Corcoran, his wife, to Mary Specht, and recorded on July 27, 1932, in the Office of the Clerk of Suffolk County, New York, in Liber 879 of Mortgages, at Page 174, which mortgage was assigned by Ellis T. Terry, as Administrator of the goods, chattels and credits of Herman Specht, deceased, to Alfred K. Nippert and/or Louis Nippert, attorneys in fact for Karoline Luise Specht, by assignment, dated November 16, 1942, and recorded in the Office of the Clerk of Suffolk County, New York, November 24, 1942, in Liber 1186 of Mortgages, at Page 243, and any and all obligations secured by said mortgage, including but not limited to all security rights in and to any and all collateral (including the aforesaid mortgage) for any and all such obligations and the right to enforce and collect such obligations and the right to possession of any and

all notes, bonds and other instruments evidencing such obligations,

c. A mortgage executed on April 23, 1930, by Erwin F. Arbour and Ruth Arbour, his wife, to Mary Specht, and recorded on April 23, 1930, in the Office of the Clerk of Suffolk County, New York, in Liber 774 of Mortgages, at Page 291, which mortgage was assigned by Ellis T. Terry, as Administrator of the goods, chattels and credits of Herman Specht, deceased, to Alfred K. Nippert and/or Louis Nippert, attorneys in fact for Karoline Luise Specht, by assignment, dated November 16, 1942, and recorded in the Office of the Clerk of Suffolk County, New York, on November 24, 1942, in Liber 1186 of Mortgages, at Page 249, and any and all obligations secured by said mortgage, including but not limited to all security rights in and to any and all collateral (including the aforesaid mortgage) for any and all such obligations and the right to enforce and collect such obligations and the right to possession of any and all notes, bonds and other instruments evidencing such obligations,

d. A mortgage executed on March 22, 1922, by Emmett B. Drake and Gladys Drake, his wife, to Mary Specht, Executrix of Estate of Henry Specht, and recorded on April 1, 1922, in the Office of the Clerk of Suffolk County, New York, in Liber 493 of Mortgages, at Page 402, which mortgage was assigned by Ellis T. Terry, as Administrator of the goods, chattels and credits of Herman Specht, deceased, to Alfred K. Nippert and/or Louis Nipport, attorneys in fact for Karoline Luise Specht, by assignment, dated November 16, 1942, and recorded in the Office of the Clerk of Suffolk County, New York, on November 24, 1942, in Liber 1186 of Mortgages, at Page 247, and any and all obligations secured by said mortgage, including but not limited to all security rights in and to any and all collateral (including the aforesaid mortgage) for any and all such obligations and the right to enforce and collect such obligations and the right to possession of any and all notes, bonds and other instruments evidencing such obligations,

e. All right, title and interest of the persons named in subparagraph 1 hereof, in and to the property insurance policies described in Exhibit A, attached hereto and by reference made a part hereof, which policies insure the real properties subject to the mortgages described in subparagraphs 2-a to 2-d hereof, inclusive, together with any and all extensions or renewals thereof,

f. That certain debt or other obligation owing to the persons named in subparagraph 1 hereof by Alfred K. Nippert and/or Louis Nippert, 2116 Union Central Building, Cincinnati, Ohio, arising out of income received from the mortgages, described in subparagraphs 2-a to 2-d hereof, inclusive, and any and all rights to demand, enforce and collect the same,

g. That certain debt or other obligation owing to the persons named in subparagraph 1 hereof by Alfred K. Nippert and/or Louis Nippert, 2116 Union Central Building, Cincinnati, Ohio, arising out of the payment in full of a certain mortgage executed May 15, 1934, by Joseph Nigro and others to Mary Specht, Executrix of the Last Will and Testament of Henry Specht, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)•

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraphs 2-a to 2-g hereof, inclusive, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 17, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Property covered	Assured	Policy No.	Amount	Issued by	Expiration date
123 3d Ave., Bay Shore	Frank S. Hubbard	[illegible]	$3,000	Hartford Fire Insurance Co	7 22 43
S/S James Street, 170' W/O East Forks Rd, Bay Shore	Mary Corcoran	4[illegible]	3,000	Glens Falls Insurance Co	8 [illegible] 47
W/S Manatuk Rd., 325' N/O Howells Rd., Brightwaters	Ruth I. Arbour	2170	1,500	National Liberty Insurance Co	11/27 43
E/S Richland Blvd., 100' S/O Iriquois Dr., Brightwaters	Anna Wingefeld	16[illegible]27	4,000	Commercial Union Assurance Co., Ltd	12 21 43

[F. R. Doc. 47-10484; Filed, Nov. 26, 1947; 8:55 a. m.]

[Vesting Order 10182]

WILHELM WUSTHOFF, SR., ET AL.

In re: Interest in bond and mortgage and property insurance policy owned by Wilhelm Wusthoff, Sr., Hulda A. Wusthoff, Wilhelm Wusthoff, Jr., Hulda Wusthoff and Eric Wusthoff.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Wilhelm Wusthoff, Sr., Hulda A. Wusthoff, Wilhelm Wusthoff, Jr., Hulda Wusthoff and Eric Wusthoff, whose last known addresses are 224 Velbertstrasse, Tonesheide, Rhineland, Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the property described as follows:

a. An undivided five-sixths interest in a mortgage executed December 12, 1922, by Allen C. Thomas, and others, Trustees for Local Union 325, United Brotherhood of Carpenters and Joiners of America of the City of Paterson in the County of Passaic in the State of New Jersey, to Wilhelmina Koettgen, and recorded in the Office of the Register of Passaic County, New Jersey, on December 13, 1922, in Book S12 of Mortgages, at Page 538, which mortgage was assigned by Frederick Koettgen and the United States Trust Company of Paterson, New Jersey, Executors and Trustees of the Last Will and Testament of Wilhelmina Koettgen, deceased, to Frederick Koettgen and the persons named in subparagraph 1 hereof, by instrument dated October 8, 1930, and recorded in the Office of the Register of Passaic County, New Jersey, on October 10, 1930, in Book E5 of Assignment of Mortgages, at Page 369, and any and all obligations secured by the aforesaid interest in said mortgage, including but not limited to all security rights in and to any and all collateral (including the aforesaid mortgage) for any and all such obligations and the right to enforce and collect such obligations, and the right to possession of any and all notes, bonds and other instruments evidencing such obligations.

b. All right, title and interest of the persons named in subparagraph 1 in and to Fire Insurance Policy No. 5078, issued by the Hartford Fire Insurance Company, Hartford, Connecticut, in the amount of $30,000.00, which policy insures the premises subject to the mortgage described in subparagraph 2-a hereof,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as

nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraphs 2–a and 2–b hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 17, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47–10485; Filed, Nov. 26, 1947; 8:55 a. m.]

[Vesting Order 10188]

MARGARETA TAUBMANN

In re: Interest in oil, gas and other minerals in certain real property and a claim owned by Margareta Taubmann, also known as Margareta Spath.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Margareta Taubmann, also known as Margareta Spath, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. An undivided 1/320th (1 acre) interest in and to all of the oil, gas and other minerals in and under and that may be produced from the following described lands situated in Logan County, State of Oklahoma, to-wit: "West half (W½) of Section Thirty One (31) Township Fifteen (15) North Range Four (4) West"

together with any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property, and

b. That certain debt or other obligation owing to Margareta Taubmann also known as Margareta Spath, by Phillips Petroleum Company, Bartlesville, Oklahoma, arising out of royalties from the property described in subparagraph 2–a hereof,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2–a hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, and

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2–b hereof,

All such property so vested to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47–10486; Filed, Nov. 26, 1947; 8:55 a. m.]

[Vesting Order CE 419]

COSTS AND EXPENSES INCURRED IN CERTAIN ACTIONS OR PROCEEDINGS IN CERTAIN NEBRASKA, MICHIGAN, AND OHIO COURTS

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it having been found:

1. That each of the persons named in Column 1 of Exhibit A, attached hereto and by reference made a part hereof, was a person within the designated enemy country or the enemy-occupied territory identified in Column 2 of said Exhibit A opposite such person's name;

2. That it was in the interest of the United States to take measures in connection with representing each of said persons in the court or administrative action or proceeding identified in Column 3 of said Exhibit A opposite such person's name, and such measures having been taken;

3. That, in taking such measures in each of such actions or proceedings, costs and expenses have been incurred in the amount stated in Column 4 of said Exhibit A opposite the action or proceeding identified in Column 3 of said Exhibit A,

Now, therefore, there is hereby vested in the Attorney General of the United States, to be used or otherwise dealt with in the interest of and for the benefit of the United States, interests in the property which said persons obtain or are determined to have as a result of said actions or proceedings in amounts equal to the sums stated in Column 4 of said Exhibit A.

The term "designated enemy country" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended. The term "enemy-occupied territory" as used herein shall have the meaning prescribed in Rules of Procedure, Office of Alien Property, § 501.6 (8 CFR, Cum. Supp., 503.6)

Executed at Washington, D. C., on November 17, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

EXHIBIT A

Column 1 Name	Column 2 Country or territory	Column 3 Action or proceeding	Column 4 Sum vested
		Item 1	
Alice Ormsby Andreani	Italy	Trust under the will of Rose Evermont Ormsby, deceased. In County Court of Douglas, State of Nebraska.	$149.00
		Item 2	
Giovina Tarasci	do	Estate of Dan Ranall, deceased. Probate Court, Wayne County, Mich., No. 318,821.	57.00
		Item 3	
Maria Domenica Di Mario	do	Estate of Donato Di Mario, deceased. Probate Court, Hamilton County, State of Ohio.	45.00
		Item 4	
Pedro Di Mario	do	Same	45.00
		Item 5	
Josephine Di Mario	do	Same	45.00
		Item 6	
Christina Iacobacci	do	Estate of Salvatore Iacobacci, deceased. Probate Court, Mahoning County, Ohio.	40.00
		Item 7	
Maria DeBlasio	do	Estate of Adolph DeBlasio, deceased. Probate Court, Mahoning County, Ohio.	21.00
		Item 8	
Santa D'Onofrio	do	Same	42.00

[F. R. Doc. 47–10489; Filed, Nov. 26, 1947; 8:55 a. m.]